

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-186

Filed: March 20, 2015

JANA WILKES, on behalf of D.N.T., a minor *
child, *

Petitioner, *

v. *

SECRETARY OF HEALTH
AND HUMAN SERVICES, *

Respondent. *

UNPUBLISHED

Special Master Hamilton-Fieldman

Attorneys' Fees and Costs; Reasonable Amount
Requested to which Respondent Does Not
Object.

Danielle A. Strait, Maglio Christopher and Toale, PA, Washington, DC, for Petitioner.
Ann D. Martin, United States Department of Justice, Washington, DC, for Respondent.

DECISION¹

On March 5, 2014, Jana Wilkes ("Petitioner") filed a petition on behalf of her child, D.N.T., pursuant to the National Vaccine Injury Compensation Program.² 42 U.S.C. §§ 300aa-1 to -34 (2006). Petitioner alleged that her child suffered from an adverse reaction to the Cervarix vaccination received on March 4, 2011. Petition ("Pet") at 1. On October 29, 2014, the undersigned issued a decision dismissing the case for insufficient proof.

On March 19, 2015, Respondent filed a Revised Stipulation of Facts Concerning Final Attorneys' Fees and Costs³. Pursuant to their Stipulation, the parties have agreed to an award of \$5,970.22 in attorneys' fees and costs. In accordance with General Order Number 9, Petitioner's counsel filed a

¹ The undersigned intends to post this unpublished decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107 347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). As provided by Vaccine Rule 18(b), each party has 14 days within which to file a motion for redaction "of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy." In the absence of such motion, the entire decision will be available to the public. *Id.*

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2006) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

³ Respondent initially filed a Stipulation for Fees on March 13, 2015. Stipulation, ECF No. 22. However, there was a discrepancy, which was corrected following a telephonic Status Conference on March 19, 2015. A Revised Stipulation for Fees was filed on March 19, 2015. Stipulation, ECF No. 24.

Declaration regarding litigation fees and costs. Declaration, ECF No. 21. In this Declaration, she stated that Petitioner has not responded to several requests to obtain a signed statement regarding General Order Number 9 and to the best of Petitioner's counsel's knowledge, Petitioner did not incur any costs. *Id.* Furthermore, in the Stipulation, Petitioner's counsel represents that she will reimburse Petitioner for any costs that Petitioner incurred that are compensable under the Vaccine Act, if necessary.

The undersigned finds that this petition was brought in good faith and that there existed a reasonable basis for the claim. Therefore, an award for fees and costs is appropriate, pursuant to 42 U.S.C. § 300aa-15(b) and (e)(1). Further, the proposed amount seems reasonable and appropriate. **Accordingly, the undersigned hereby awards the amount of \$5,970.22, in the form of a check made payable jointly to Petitioner and Petitioner's counsel, Danielle A. Strait.**

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.⁴

IT IS SO ORDERED.

/s/ Lisa D. Hamilton-Fieldman
Lisa D. Hamilton-Fieldman
Special Master

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.